

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MOBILEMEDIA IDEAS LLC,)	
)	
Plaintiff,)	Civil Action No. 3:11-cv-02353-N
)	
v.)	JURY TRIAL DEMANDED
)	
RESEARCH IN MOTION LIMITED and)	
RESEARCH IN MOTION)	
CORPORATION,)	
)	
Defendants.)	

**PLAINTIFF MOBILEMEDIA’S OPPOSITION TO
DEFENDANT RIM’S MOTION TO DISMISS FILED JANUARY 25, 2013**

On January 10, 2013, the parties jointly moved to reset the Court’s Scheduling Order (Docket No. 222) and to continue the trial date. *See* Docket No. 340. The parties noted that “[a]s of the filing of this Motion, significant pretrial deadlines are approaching and the trial date is less than 30 days out.” Docket No. 340 at 2, ¶ 2.

On January 14, 2013, the Court entered the following Order: “It is hereby ordered that all matters in this case are stayed pending the filing of a revised scheduling order.” Docket No. 341.

As of today, the Court has not yet entered a revised scheduling order.

Nevertheless, and despite this stay, on January 24, 2013, RIM moved to dismiss this action. *See* Docket Nos. 343-344.¹ When MobileMedia asked RIM to agree that the Court’s Order that “all matters are stayed” necessarily stayed the time to oppose the motion to dismiss, RIM refused, insisting that MobileMedia respond to its motion in 21 days.

¹ On January 25, 2013, RIM filed a corrected memorandum in support, making motion fully submitted as of January 25, 2013. *See* Docket No. 345.

Counsel for MobileMedia has met and conferred with counsel for RIM regarding this. It is RIM's stated position that the Court's Order intended to stay the case for only three days (until such time as the parties filed their respective proposed orders), and that, notwithstanding the fact that there are now competing scheduling proposals before the Court, that the case is not in fact stayed.

MobileMedia is not asking the Court to strike RIM's motion for having been filed in violation of the stay, although that certainly would be one appropriate response. Rather, MobileMedia simply hereby indicates it opposes the motion to dismiss, and will serve its brief in opposition twenty-one days after the stay has been lifted.

Dated: January 28, 2013

By: /s/ Mark D. Strachan

Mark D. Strachan

State Bar No. 19351500

Email: mstrachan@swtriallaw.com

Richard A. Sayles

State Bar No. 17697500

Email: dsayles@swtriallaw.com

SAYLES WERBNER

1201 Elm Street, 44th Floor

Dallas, TX 75270

Tel.: (214) 939-8700

Fax: (214) 939-8787

PROSKAUER ROSE LLP

Steven M. Bauer (*admitted pro hac vice*)

Justin J. Daniels (*admitted pro hac vice*)

Safraz W. Ishmael (*admitted pro hac vice*)

One International Place

Boston, MA 02110-2600

(617) 526-9600

PROSKAUER ROSE LLP

Kenneth Rubenstein (*admitted pro hac vice*)

Anthony Coles (*admitted pro hac vice*)

Alan Federbush (*admitted pro hac vice*)

Eleven Times Square
New York, NY 10036
(212) 969-3000

*Attorneys for Plaintiff
MobileMedia Ideas LLC*

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that Justin Daniels and Mark Strachan, counsel for MobileMedia, conferred with Gregory Noonan and John Russell Emerson, counsel for RIM, on January 28, 2013, in a good faith attempt to resolve the issues raised in the foregoing Opposition; in particular, that the Court's order stayed all matters, including any deadlines to respond to RIM's Motion to Dismiss, until entry of a revised scheduling order. Because RIM has taken the position that the submission of proposed scheduling orders lifted the stay, the matter could not be resolved by agreement.

/s/ Mark D. Strachan

CERTIFICATE OF SERVICE

This is to certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on this 28th day of January, 2013.

/s/Mark D. Strachan